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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,668	08/08/2001	Joseph F. Wenzl	210163	3665
23460	7590	10/20/2005	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/924,668

Applicant(s)

WENZL ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7, 9-11 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 18 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-11, 17, and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The status of the claims is as follows:

Claims 5, 8 and 12-15 have been cancelled; and

Claims 1-7, 9-11, and 16-22 are herein address below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Nelson ('517). Nelson ('517) discloses a security gate assembly comprising an elongated gate arm (1) of sufficient length to impede passage of a conventional vehicle along a defined pathway of travel, a DC motor (25) having an output of torque upon receipt of pulses (see abstract) which provides "signals" for the elongated gate arm (1), a linkage mechanism (2) attached to one end of the gate arm (1) and to the DC output thereby causing rotation of the gate arm (1), and an adaptive control circuit (column 3, lines 35-46) that provides a plurality of pulses for different operating conditions (i.e., up and down) wherein the adaptive control circuit further having a signal based on the position of the gate arm (column 3, lines 14-20) and utilizing sensors (column 3, lines 14-20) and position sensors to determine the position therebetween up and down.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson ('517) in view of Rumpz ('578). All of the elements of the instant invention are discussed in detail above except providing a four bar linkage. Rumpz ('578) discloses a four bar linkage (26, 28, 54, and 56) which connects the gate arm (12) to a motor output (21). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the drive assembly of Nelson with a four bar linkage as taught by Rumpz ('578) since a four bar linkage provides greater rigidity between the motor output and the gate arm and enables longer gate arms to be used to extend greater distances across a pathway.

Claims 16, 18, and 20-22 are allowable.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. The applicant argues that Nelson ('517) "fails to show a suggest the motor shaft position signals are indicative of gate position and/or speed". Since Nelson ('517) discloses the position and speed of the gate arm and the gate arm is connected to a motor output position for moving the gate arm, then the position signals and the speed


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of the gate arm based on the pulses shows the location of the gate arm at any position between the open and closed position, Nelson ('517) the output of the elongated gate arm is a function of the motor based on the position and the signals based on the speed. Therefore, Nelson ('517) is not silent in its interpretation of the motor output being a function of the position and speed of the elongated gate arm and visa verse. Furthermore, Rumpz discloses a four bar linkage which may or may not be complex as suggested by the applicant but as clearly stated above, it would have been obvious to provide the elongated gate arm assembly of Nelson ('517) with a four bar linkage as taught by Rumpz ('578) since a four bar linkage provide mechanical advantages when lifting a larger/heavier gate.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman
at telephone number 703-308-2120.



Jerry Redman
Primary Examiner